

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Level 3 Communications, LLC (U5941C),

Complainant,

vs.

Pacific Bell Telephone Company, d/b/a
AT&T California (U1001C),

Defendant.

Case 10-12-018
(Filed December 29, 2010)

ORDER EXTENDING STATUTORY DEADLINE

Summary

This decision extends the statutory deadline in this proceeding to December 29, 2013.

Background

Public Utilities Code Section 1701.2(d) provides that adjudicatory cases shall be resolved within 12 months of the date that they are initiated unless the Commission makes findings as to why that deadline cannot be met and issues an order extending that deadline. This matter has been categorized as adjudicatory, and the 12-month deadline for resolving this proceeding is December 29, 2012.

On December 29, 2010, Level 3 Communications, LLC (Level 3), filed complaint Case (C.) 10-12-018, seeking to resolve a dispute with Pacific Bell Telephone Company d/b/a AT&T California (AT&T), regarding the

enforcement of the terms of the interconnection agreement (ICA) they entered into, which the Commission approved on April 21, 2005. One portion of the relief requested in the complaint, is the enforcement of the terms of the ICA and applicable federal law requiring AT&T to provide collocation of competitive local exchange carriers (CLEC) Cross-Connects to Level 3 at Total Element Long-Run Incremental Cost-based rates in all of AT&T's wire centers in California in which Level 3 requests such CLEC Cross-Connects.

A Prehearing Conference was scheduled for May 6, 2011, but was removed from the calendar and the matter suspended pending the Commission's issuance of a rehearing decision on the same issue in Decision (D.) 10-07-005. In addition to the matter pending before the Commission, there was a pending case in Federal District Court concerning the same issues. The Commission granted an extension of the statutory deadline in this proceeding to allow the Commission to address the rehearing of D.10-07-005.¹

The related Federal District Court action was stayed pending resolution of the Commission action. On March 22, 2012, the Commission issued a decision modifying D. 11-07-032 and the underlying decision, D. 10-07-005.² Ultimately, AT&T moved to dismiss the related federal action. As a result of the resolution of both the Commission action and Federal District case, the matter is now ripe for Commission consideration.

¹ D.11-12-045.

² D.12-03-055.

An extension of the statutory deadline to December 29, 2013, is reasonable to allow the Commission to reschedule the Prehearing Conference to define the scope of this case and its procedural schedule.

Waiver of Comment Period

Under Rule 14.6(c)(4) of the Commission's Rules of Practice and Procedure, the Commission may reduce or waive the period for public review and comment of proposed decisions extending the deadline for resolving adjudicatory proceedings. Accordingly, the otherwise applicable period for public review is being waived.

Assignment of Proceeding

Catherine J.K. Sandoval is the assigned Commissioner and Katherine MacDonald is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The complaint Case 10-12-018 was initiated on December 29, 2011. The statutory deadline for resolution of this case was extended to December 29, 2012
2. This proceeding must be resolved within 12 months of its extended statutory deadline, unless this date is extended.
3. The complaint Case 10-12-018 was stayed pending Commission resolution of the rehearing of D.10-07-005 and to allow the Federal District Court to address the case pending before it concerning the same issue.
4. The Commission issued D.12-03-055 resolving the application for rehearing of D.10-07-005 on March 22, 2012.
5. The pending Federal District Court Case was subsequently dismissed.
6. Complaint case 10-12-018 is now ready for consideration by the Commission.

7. An extension of the 12-month deadline is necessary to allow the Commission to resume consideration of this case, issue a decision, and preserve appropriate appeal rights.

Conclusions of Law

1. The 12-month statutory deadline imposed by Public Utilities Code Section 1701.2(d) should be extended until December 29, 2013.
2. This matter should be effective immediately.

IT IS ORDERED that the 12-month statutory deadline in this proceeding is extended until December 29, 2013.

This order is effective immediately.

Dated _____, at San Francisco, California.